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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,344	09/16/2003	Norimasa Nagasawa	D-1489	2067

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EXAMINER

SAETHER, FLEMMING

ART UNIT PAPER NUMBER

3677

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,344

Applicant(s)

NAGASAWA ET AL.

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Boik (US 4,504,009). In the embodiment of Fig. 14, Boik discloses a hole plug comprising a head portion (55) and a foot portion extending from the back of said head portion. The foot portion including a plurality of plate members (56) arranged in a cylindrical shape. Each plate member having a step (at 60) at a base (58) close to a head capable of engaging a hole (at 21). There is further provided a column (64) projecting from the back of the head which includes a plurality of supporting means (75) also integral with the back of head for suppressing the plate member from bending. The column is read as being connected to each of the plate member through the supporting means since the claim does not require direct connection.

Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaeger (US 6,319,436). Jaeger discloses a hole plug comprising a head portion (12) and a foot portion extending from the back of said head portion. The foot portion including a plurality of plate members (52) arranged in a cylindrical shape. Each plate member having a step (48) at a base close to a head capable of engaging a hole (not shown). There further being provided a plurality of guide means (60-66) positioned between the plate members and extending from the back of head a length longer than the plate members (see Figs. 2 and 3). Further, the location along the axis of the plug where the guide means come together (as seen in Figs. 1 and 3) is read as a projecting column which is integrally connected to the guide means.

Claims 1, 2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraus (US 4,761,319). Kraus discloses a hole plug comprising a head portion (4) and a foot portion extending from the back of said head portion. The foot portion including a plurality of plate members arranged in a cylindrical shape. Each plate member having a step (6) at a base (5,7) close to a head capable of engaging a hole (not shown). There is further provided a column (8') projecting from the back of the head which includes a plurality of supporting means (column 5, line 8-12). Kraus further shows the periphery of the head inclined towards the foot (at 10). The column is read as being connected to each of the plate member through the supporting means since the claim does not require direct connection.

Claim Rejections - 35 USC § 103

Claim 6 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Boik as applied to claim 1 above, and further in view of Mejlso (US 3,181,411). Boik does not disclose the supporting means being formed as a wavy member. Mejlso discloses a hole plug including a supporting means formed as a wavy (19-20 or 36-38). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the support means of Boik with a wavy member as disclosed in Mejlso because a wavy member as disclosed in Mejlso would not only provide a means of suppressing the movement of the plate member it would provide support to the plate member for an overall strengthened and thus improved structure. Indeed, for combination to made

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operable the wavy member would be extending between the column and the plate member and still integrated with the back of the head. Lastly, since in Boik the height of the supporting means is less than the column, the wavy member would also be less than the height of the column once the combination was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boik as applied to claim 1 above, and further in view of Jaeger (US 6,319,436). Boik discloses the foot portion of the hole plug may be provided with interlaced guide means (28) but, does not disclose the guide means being longer than the plate members. Jaeger disclose a hole plug where as described above, there is provided a guide means (60-66) having a length longer than the plate members (see Figs. 2 and 3). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the guide means of Boik with longer ones as disclosed in Jaeger in order to provide better guidance into the hole.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boik in view of Mejlso and Jaeger. In the embodiment of Fig. 14, Boik discloses a hole plug comprising a head portion (55) and a foot portion extending from the back of said head portion. The foot portion including a plurality of plate members (56) arranged in a cylindrical shape. Each plate member having a step (at 60) at a base (58) close to a head capable of engaging a hole (at 21). There is further provided a column (64) projecting from the back of the head which includes a plurality of supporting means (75)

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also integral with the back of head for suppressing the plate member from bending. Boik does not disclose the supporting means being formed as a wavy member. Mejlso discloses a hole plug including a supporting means formed as a wavy (19-20 or 36-38). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the support means of Boik with a wavy member as disclosed in Mejlso because a wavy member as disclosed in Mejlso would not only provide a means of suppressing the movement of the plate member it would provide support to the plate member for an overall strengthened and thus improved structure. Indeed, for combination to made operable the wavy member would be extending between the column and the plate member and still integrated with the back of the head. Modified Boik discloses the foot portion of the hole plug may be provided with interlaced guide means (28) but, does not disclose the guide means being longer than the plate members. Jaeger disclose a hole plug where as described above, there is provided a guide means (60-66) having a length longer than the plate members (see Figs. 2 and 3). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the guide means of Boik with longer ones as disclosed in Jaeger in order to provide better guidance into the hole.

Response to Remarks

Applicant initially argues the claim 1 defines over Boik because in Boik the back-up lugs, which is equated to the claimed supporting means, are not directly connected between the plate members and column. In response, the claims do not require a direct

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connection but, instead merely require a connection through the supporting means which the examiner maintains is taught in Boik as addressed in the above rejection. Applicant is reminded that the claims are to be given there broadest reasonable interpretation and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Pearson*, 181 USPQ 641 (CCPA 1974) and *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that claim 8 also defines over Boik since Boik does not disclose guide means as claimed. In response, Boik is not relied upon to teach the guide means since such is taught in Jaeger.

Along the same lines, applicant argues that claim 1 defines over Jaeger since Jaeger does not disclose the guide means as claimed. In response, Jaeger is not relied upon to teach the guide means since such is taught in Boik as discussed above.

Applicant argues that claim 8 defines over Jaeger because Jaeger does not disclose a column projection from the back face surface of the head portion. In response and as addressed in the above rejection, the column in Jaeger is read as the location along the center axis where the guide means come together. It should be recognized the claim do not require the column to be hollow.

Applicant initially argues claim 1 defines over Kraus for the same reasons as they define over Boik because, as in Boik, the supporting means disclosed in Kraus are not directly connected between the plate members and column. In response, the claims do not require a direct connection but, instead merely require a connection through the supporting means which the examiner maintains is taught in Kraus as addressed in the above rejection.

Applicant argues that claim 8 also defines over Kraus because Kraus does not disclose guide means as claimed. In response, as with Boik, Kraus is not relied upon to teach the guide means since such is taught in Jaeger.

Applicant argues that claims 1 and 8 define over Mejlso because, Mejlso fails to disclose the column and the supporting means as claimed. In response, relied upon only for its teaching of the wave shape as shown in Figs. 4 and 9 therein.

Lastly, as regards the rejections based on a combination of reference, applicant is reminded that arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

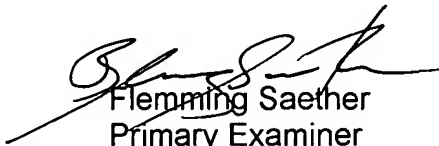
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Flemming Saether
Primary Examiner
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